

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GINA ANNE NOEL PANE, :

Plaintiff, :
-against- :

No. 07 Civ. 3216 (WP4) (LMS)

THE TOWN OF GREENBURGH, JOHN KAPCIA, :
in his capacity as Chief of the Greenburgh Police :
Department, ERIK WARD, POLICE OFFICER :
MICHAEL MUESSER, SERGEANT ROBERT :
GRAMAGLIA, SERGEANT FRANCIS PUMILLO, :
DETECTIVE PAUL FERTIG, JOHN DOE POLICE :
OFFICERS 1-10 so named as their identities have :
yet to be established, :

DECLARATION OF
JONATHAN BANDLER
IN SUPPORT OF MOTION
TO QUASH OR MODIFY
SUBPOENA

Defendants.
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I, JONATHAN BANDLER, hereby declare, pursuant to 28 U.S.C. § 1746:

1. I am a professional journalist employed by *The Journal News*, a daily newspaper that is widely distributed throughout Westchester, Bronx, New York, Putnam, and Rockland Counties and in surrounding areas of New York and Southern Connecticut. I am not a party to this action.

2. In the course of my work at *The Journal News*, I prepared an article headlined "Street Crime Unit Suspended" (the "Article") that was published in the newspaper on February 3, 2006. A copy of this Article is attached hereto as Exhibit "A."

3. On or about January 28, 2008, the attorney for plaintiff in this action, Gina Pane, purported to serve upon me a subpoena (the "Subpoena") seeking the production of documents and deposition testimony from me relating to, among other things:

The identity of the person(s) who initially contacted *The Journal News* on or about 2/2/06, 6 days after Gina Pane filed a complaint

with the Greenburgh Police Department Internal Affairs unit, and the Westchester District Attorney's Office Public Integrity Bureau, that resulted in publication of [the Article].

A copy of the Subpoena is attached hereto as Exhibit "B."


4. The Subpoena was not personally delivered to me, but was merely sent to me at the office of *The Journal News*.

5. On or about February 8, 2008, my attorneys served a series of objections to the Subpoena. A copy of the objections is attached hereto as Exhibit "C."

6. Without waiver of the reporters' privileges accorded by the First Amendment to the United States Constitution, federal common law, Article I, Section 8 of the New York State Constitution and Section 79-h of the New York Civil Rights Law (the "Reporter's Privileges"), and reserving all of my rights thereunder, I attest that: (a) I do not have any documents that would identify any "person(s) who initially contacted *The Journal News*" concerning the subject matter that gave rise to the Article, and (b) any such contact was with a confidential source.

7. I assert the Reporter's Privileges and respectfully request that the Subpoena be quashed insofar as it seeks any testimony or documents that are privileged, including, but not limited to, the identity of any news source who is not disclosed in the Article.

I declare under penalty of perjury that the foregoing is true and correct. I executed this declaration on February 11, 2008, in White Plains, New York.



JONATHAN BANDLER